

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Ameren Illinois Company)	
)	ICC Docket No. 13-0192
Proposed General Increase in Gas)	
Rates and Revisions to Other Terms)	
And Conditions of Service)	

REPLY BRIEF ON EXCEPTIONS OF
THE PEOPLE OF THE STATE OF ILLINOIS

The People of the State of Illinois

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NOW COME the People of the State of Illinois (“AG” or “the People”), by Lisa Madigan, Attorney General of the State of Illinois, and pursuant to Part 200.830 of the Illinois Commerce Commission’s (“the Commission”) rules, 83 Ill.Admin.Code Part 200.830, hereby reply to the Brief on Exceptions and Exceptions filed by Ameren Illinois Company (“Ameren” or “AIC” or “the Company”).

I. INTRODUCTION

The Company’s Brief on Exceptions repeats a similar theme that the Company has presented throughout the case that the Company should recover its projected amounts for 2014 even though those amounts may be grossly out of proportion with the Company’s actual historical spending. This argument becomes particularly pronounced in the Company’s Brief on Exceptions (BOE) to the Proposed Order’s (PO’s) conclusions on Non-Labor Expenses, Advertising Expenses, and Charitable Contributions. The People urge the Commission to reject the Company’s complaints voiced in its Brief on Exceptions, and enter a final order consistent with the AG Brief on Exceptions and this Reply Brief on Exceptions.

II. NON-LABOR EXPENSES

The Proposed Order acknowledges the reasonableness of the People's modest reductions to the Company's JULIE Locate Requests, Sewer Cross Bores, and Corrosion Control Painting. The Company, however, disputes these adjustments and, quite curiously, claims that there was no showing that "it would be imprudent" for the Company to spend the amount it had projected. AIC BOE at 15. As to this argument, the People simply note that the Company seems to have misstated the burden of proof in this docket. As well established by the Public Utilities Act, the Company has the burden of proving the justness and reasonableness of the amounts it seeks to recover from ratepayers. 220 ILCS 5/9-201(c). It is also well established that the People, Staff, and other Intervenors, are under no such burden to prove the *unreasonableness* of the Company's proposed forecast. The Commission should not be swayed by the Company's attempts to shift the burden in this docket.

Setting this aside, however, the People have demonstrated that the Company has not met its burden here to show that the substantial increases in JULIE Locate Requests, Sewer Cross Bores, and Corrosion Control Painting expenses it requests are prudent or reasonable. The Proposed Order properly acknowledged the Company's shortcomings on certain non-labor expenses. AG Initial Brief (hereinafter cited as "IB") at 30-32; AG RB at 22-27. As noted by the People, the bulk of the Company's argument throughout this docket has involved the Company's claims that there is a "potential" that contractor costs could escalate in 2014 or 2015. AIC IB at 41. The People urge the Commission to not burden ratepayers with the "potential" that an expense may rise in a given year, particularly where the Company has not justified that potential rise or the additional expenses.

A. JULIE LOCATE REQUESTS

As to the JULIE Locate Requests, again, the People acknowledge the important safety considerations involved in this task. However, the Company continues to ask the Commission to approve a forecasted amount that it has been unable to substantiate through its own workpapers, despite the Company's claims that its projections are "reasonably accurate." AIC BOE at 17. The People's adjustment to JULIE Locate Requests accepts all of the Company assumptions and input data contained in its workpapers and includes precisely the amount calculated by AIC to develop the test year forecast.¹ In its acceptance of the People's position, the Proposed Order acknowledges AIC's overstated and unsupported estimate and the People urge the Commission to adopt the Proposed Order as drafted.

B. CROSS BORES

The Proposed Order also accepted the People's modest \$50,000 reduction to the Company's forecasted expense increases for Sewer Cross Bore inspection work. *See* AG IB at 30; AG/CUB Exhibit 5.1 at page 2, line 5. This allowance will allow AIC to continue to comply with safety regulations and address any threats that cross bores represent to the integrity of its gas distribution system – a threat that it has been aware of for several years now. AG IB at 30. The Company continues to contend, as it has throughout this proceeding, that the People's proposed funding level is "arbitrary" and would not support the number of inspections planned for the test year. AIC BOE at 17. Quite to the contrary, however, the People have demonstrated time and time throughout this docket that the People's adjustment is based upon the *Company's own estimates*. AG IB at 30; AG RB at 23; AG/CUB Ex. 5.0 at 39.

¹ As noted by Mr. Brosch, the Company appears to have rounded up from its own calculations and, in the response to DR AG 20.25(d) indicated that the test year forecast of \$3.1 million "was an estimated cost". AG Ex. 5.0 at 46. The Company's own, more detailed calculations in this response support a test year gas expense amount of \$2.94 million, which is the amount included for the test year after the AG/CUB \$160,000 downward adjustment is applied to the Company's "estimated cost" that is not supported by AIC's workpapers. *Id.*

The People accepted the Company's projected cost per unit, and simply applied to to the lower end of the Company's *own range* of planned inspections. AG/CUB Ex. 5.0 at 39. The Commission should reject the Company's complaint that the People's recommendation is arbitrary given that the Company itself generated the number on which the People's adjustment is based. See AG RB at 23. The Proposed Order recognized the fallacy of the Company's arguments and the People urge the Commission to adopt the Proposed Order as drafted on the issue of Sewer Cross Bore inspections.

C. CORROSION CONTROL PAINTING

The People proposed a reasonable reduction to the Company's projected Corrosion Control Painting expenses – an amount that is still well above the Company's historical expenditures and will allow for expansion of the program. AG IB at 31. Nonetheless, the Company persists in complaining that the People's projected expense level will not allow it to erase a backlog or expand the program. AIC BOE at 17-18. The Company in this docket has admitted that it needs more money in order to address a backlog of work that should have been done in prior years. AIC IB at 39. The Company continues this argument in its Brief on Exceptions and complains that it will not be able to expand the program based on the funding provided in the Proposed Order. AIC BOE at 17-18. The People reiterate that the mere existence of this admitted backlog is an indication that the Company views this painting work to be discretionary and readily deferred when other financial priorities take precedence. AG RB at 25; AG/CUB Ex. 5.1, page 2 at line 7.

The Company has not justified its greatly increased "catch-up allowance" of \$1,000,000 that increases the existing budget by over \$300,000 for painting and, in the end, may elect to not spend this amount if other financial priorities again move ahead of painting in management's

discretion. Ratepayers should not be left in a position where they are paying for services that may likely not be performed. The Proposed Order recognized this basic fact and adopted the People's proposed 2014 test year allowance for this discretionary painting work, which still exceeds the Company's own level of historical actual expense. The People, therefore, urge the Commission to adopt the Proposed Order as written on the issue of Corrosion Control Painting.

III. ADVERTISING EXPENSES

The Proposed Order presented a thoughtful analysis when presenting its recommendation to adopt the AG/CUB proposal on Advertising Expenses. PO at 66. The Company, however, complains that the Proposed Order “would not permit AIC to implement *all* of the planned initiatives.” AIC BOE at 23. The trouble with the Company's perspective on this is that the Company did not prove that it is entitled to *all* of the funding. The Proposed Order properly notes that the Company has “some discretion” in deciding what advertising activities get funded. PO at 66. As demonstrated by the People in great detail, the Company failed to support any need for more expansive advertising efforts in 2014 and the requested amount is excessive – particularly when compared to the Company's recent actual expense levels. AG IB at 38-39. In the absence of greater detail and itemization of the planned advertising expenses, the People applied the best available proxy – the Commission's analysis of similar expenses in Docket Number 12-0293. AG IB at 40; AG/CUB Ex. 1.3 at page 6; AG/CUB Ex. 1.0 at 36. The Proposed Order acknowledges that this proxy is “not a perfect fit” – and the People agree. PO at 66. However, in the absence of the information that the People had requested of the Company, it provided the best fit possible. The Proposed Order properly recognizes the proverbial barrel that the Company had the People and other intervenors over in this docket.

The Company complains, however, that “the AG/CUB ‘proxy’ proposal is entirely based upon the false premise that AIC did not provide an itemized list of incremental spending initiatives—when it did.” AIC BOE at 27-28. The trouble with this statement is that the Company has *never* provided such itemization. As previously noted by the People, the Company merely provided a bullet listing of advertising that the Company “plans to execute in 2014.” AG IB at 54; AG RB at 30, citing AIC IB at 54-55; AIC Ex. 21.0R at 35-36. This most basic of bullet points does not constitute an itemization of actual advertising copy and costs sufficient for detailed review and analysis. AG IB at 54; AG RB at 30. Even if the Commission were to rely upon the Company’s bullet-points, the Commission would likely find that the Company justified no more than \$806,000 of gas Information Advertising² - an amount lower than that adopted in the Proposed Order. Therefore, the Company’s purported justification would result in a requested amount less than the People’s recommended level of spending for advertising expense. AG IB at 40; AG/CUB Ex. 1.3 at page 6. The Company did not justify an amount greater than that allowed in the Proposed Order.

The Proposed Order properly adopted the People’s proposed adjustment to Advertising Expenses. The People’s adjustment for forecasted advertising expenses followed the same analysis that the Commission applied in the most recent Ameren gas rate order. AG IB at 39; ICC Docket No. 12-0293, Final Order (December 5, 2012) at 63, 65, 69. The People urge the Commission to adopt the Proposed Order as drafted on the issue of Advertising Expenses.

IV. CHARITABLE CONTRIBUTIONS

The Proposed Order adopted the People’s recommendation on charitable contributions. In doing so, it concluded that the People’s use of the Company’s 2012 annual actual spending,

² Sum of \$100,000, \$75,000, \$335,000, \$100,000, \$73,000, \$50,000 and \$73,000 listed by Mr. Kennedy. AIC Ex. 21.09R at 27.

the most recent available, “appears to provide a reasonable estimate of test-year expenditures.” PO at 58. The Company, however, complains that *its own* historical spending on charitable contributions in 2012 is not a reliable indicator of its planned 2014 spending. AIC BOE at 18. In response, the People simply note, as they have throughout this docket, that the Company’s proposed recovery represents a 124% increase above the Company’s actual 2011 spending and a 40% increase above its actual 2012 contributions. AG IB at 33; AG RB at 27. The People’s realistic recommendation allows for recovery of 2014 charitable contributions at a level based on the Company’s actual historical spending, including an amount to allow for inflation. AG IB at 33, 35; AG RB at 27; AG/CUB Ex. 1.0 at 33. It is confounding that the Company claims that the People’s numbers are not representative of its planned spending when AG/CUB witness Brosch proposed his adjustments based on the very numbers that the Company once viewed to be reasonable expenditures. AG/CUB Ex. 1.0 at 33.

The Company also argues that the Proposed Order, which adopts the People’s recommendation, ignores factors outside of historical spending – namely the Company’s observations about the improvement of the economy – which the Company claims should allow for a greater level of charitable contributions. AIC BOE at 20. In addition to the fact that there is no data in the record to support the Company’s musings about improved economic conditions, the Company’s charitable contributions should be closely scrutinized regardless of economic conditions because they are discretionary expenditures requiring consumers to fund charities and not-for-profit organizations selected by the utility. While the Company suggests that the Order in Docket 11-0282 is an example of where economic conditions were viewed as a factor in recovery of charitable contributions, the key question is whether the expenses are “reasonable in amount” (220 ILCS 5/9-227) and the discussions of improved financial conditions are little more

than a red herring. AG/CUB witness Brosch's recommendations are based on the amounts *actually spent* by management in its discretion *in 2012*. AG IB at 34; AG/CUB Ex. 5.0 at 49. One could make the argument that the economy had shown improvement in 2012 over prior years, and the substantial increase in spending between 2011 and 2012 already captures that effect. The Company chose to make the level of contributions it made in 2012 and irrespective of the condition of the economy in general, a 40% increase in spending over 2012 is simply not reasonable.

The Company also argues that "the Proposed Order's findings do not give any consideration to AIC's commitment to make charitable contributions in excess of the amounts made in 2012." AIC BOE at 20. In response, the People note that the Company's intention to spend money does not, in and of itself, justify allowing ratepayer recovery if the total amount requested is excessive or unreasonable. In any event, the record evidence reflects that the Company did not support its planned level of spending for 2014 and the Proposed Order properly rejected the requested level of expenses.

Next, at page 21 of its Brief on Exceptions, the Company refers to the Commission's recent order in Docket Nos. 12-0511 and 12-0512 (cons.), in which the Commission allowed Peoples Gas and North Shore Gas to recover approximately \$1.243 million of charitable contribution. According to AIC, averaged over those companies' 987,000 customers, that constituted approximately \$1.25 per customer, according to AIC Ex. 21.0 (Rev.) at 15:319-322. The Company notes that its requested recovery of charitable expense in this docket is approximately \$0.64 per customer, citing AIC Ex. 21.0 (Rev.) at 15:323-324, and asks the Commission at page 22 of its BOE to revise the Proposed Order to deem the Company's requested charitable expense as "reasonable" in light of the discrepancy in per-customer

spending. However, the briefing and order in the Peoples/North Shore proceeding did not address whether the proposed future-test-year charitable contribution expense was consistent with actual expense in recent years; the only proposed adjustment to charitable contribution in that proceeding was based on contributions outside the companies' service areas. Docket Nos. 12-0511 and 12-0512 (cons.), Order at 164-167 (June 18, 2013).

In the instant proceeding, the adjustment proposed by AG, CUB, and Staff is based on the stark difference between the Company's requested recovery and its recent actual charitable spending from 2010 through 2012. It is thus not appropriate to compare charitable spending in the two cases. Other than the proposition from an Illinois Supreme Court case that "[u]tilities cannot receive differential treatment arbitrarily," the Company cites no law in its BOE to establish the proposition that two gas utilities should receive equivalent recovery of charitable expense per customer. Here, Peoples/North Shore on the one hand and Ameren on the other hand are not receiving "differential treatment arbitrarily"; in both proceedings, the utilities have been held to the standard that requested test-year recovery in a given expense category should be consistent with actual historical spending, absent a very good reason for a large increase.

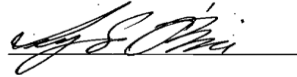
In the end, the People based their proposal on the Company's actual historical spending in recent years and the Company has not proven that any other level of recovery was warranted. The Proposed Order recognized the People's proposal as a reasonable adjustment and the People urge the Commission to adopt the conclusions of the Proposed Order on charitable contributions as drafted.

V. CONCLUSION

For all of the reasons stated above and those presented in the People's Briefs in this docket, the People of the State of Illinois urge the Commission to adopt a Final Order consistent with the recommendations in this Brief and the AG Brief on Exceptions.

Respectfully submitted,

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